

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
v.)
)
TYSON FOODS, INC., et al.,)
)
Defendants.)

Case No. 05-CV-329-TCK-SAJ

CARGILL, INC.'S RESPONSE TO
STATE OF OKLAHOMA'S JULY 10, 2006 SET OF
REQUESTS FOR PRODUCTION TO CARGILL, INC..

TO:

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GENERAL OBJECTIONS

A. Definitions and Terms: Cargill, Inc. objects to certain of the words and phrases used by Plaintiff in its document requests as overbroad and unduly burdensome. Such objection includes, but is not limited to, Plaintiff's definition of "Cargill, Inc.," "You" and "Your" to include "insurance carriers," which are independent entities not a party to this action. Cargill, Inc. also objects to Plaintiff's definition of "documents and materials" to the extent that Plaintiff's definition is inconsistent with the definition of "documents" set forth in Rule 34(a) of the Federal Rules of Civil Procedure.

B. Privileges: Cargill, Inc. objects to Plaintiff's document requests as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks to invade information or documents protected by the attorney-client, work product, self-evaluative or joint defense privileges, or any other applicable discovery rule or privilege. Cargill, Inc. specifically objects to the production of documents or information in the possession of or obtained from non-testifying consultants or experts who have been specifically



retained to assist counsel for Cargill, Inc. with the defense of this litigation as subject to these privileges.

C. Scope; date and geographic range: Cargill, Inc. objects to the absence of any reasonable limit to the date range and to the geographic scope in these document requests as overbroad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Such objection includes but is not limited to the facts that, as currently phrased, Plaintiff's document requests purport to (1) seek information or documents prior to 2002, which Cargill, Inc. understands to be the earliest time period allowed by the statutes of limitation applicable to Plaintiff's claims and (2) seek information or documents outside the geographic boundaries of the Illinois River Watershed.

D. Exception to Date Range Objection: Notwithstanding and without waiving the objection asserted in paragraph C, Cargill, Inc. will produce all responsive, non-privileged documents (without regard to date) contained in its separately maintained grower files for all growers identified in Cargill, Inc.'s Answer to Interrogatory No. 1 of the State's First Set of Interrogatories.

E. Option to Produce Documents: Cargill, Inc. further objects to these document requests to the extent that they purport to require Cargill, Inc. to produce documents in any particular format. Pursuant to Rule 34(b) of the Federal Rules of Civil Procedure, Cargill, Inc. will use its discretion in producing responsive, non-privileged documents either (1) as they are kept in the usual course of business or (2) organized and labeled to correspond with the categories in these requests.

F. No waiver of objection or admissibility: In responding to these document requests, Cargill, Inc. is asked for and supplies information regarding the existence and location of various documents or other information. In responding to this inquiry, Cargill, Inc. is not waiving future objections to either production in discovery or admissibility at trial of any document or information supplied or referred to in discovery.

G. Confidentiality: Cargill, Inc. objects to each request as overbroad and unduly burdensome to the extent that it seeks information or documents which contain confidential business or commercial information or proprietary and confidential trade secrets prior to the Court's entry of a Confidentiality and Protective Order.

H. Continuing discovery: In responding to these document requests, Cargill, Inc. is supplying all information and documents known to it at this time after a reasonable inquiry. However, discovery is continuing. Should future discovery reveal any further information or documents as to the matters at issue herein, Cargill, Inc. will supplement its answers as necessary in accordance with the Federal Rules of Civil Procedure.

Without waiving the foregoing objections, but hereby incorporating each of them by reference in the specific responses as if fully set forth therein, and subject thereto, Cargill, Inc. further states and alleges as follows:

matter of this request. Subject to and without waiving these objections, Cargill, Inc. will produce upon entry of a mutually agreeable confidentiality and protective order all reasonably responsive, non-privileged documents that it has been able to locate as of the date of service of these responses.

* * *

Request for Production No. 120: Please produce all documents and materials reflecting, referring to or relating to any testing or analyses performed by or on behalf of you on soils or lands located within the IRW.

Response: Cargill, Inc. objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill, Inc. further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents prior to 2002; seeks information protected by the attorney client, work product, or joint defense privileges; seeks documents in the public domain which are equally available to Plaintiff as to Cargill, Inc.; and seeks all documents "reflecting, referring to or relating to" the subject matter of this request. Subject to and without waiving these objections, Cargill, Inc. will produce upon entry of a mutually agreeable confidentiality and protective order all reasonably responsive, non-privileged documents that it has been able to locate as of the date of service of these responses.

Request for Production No. 121: Please produce all documents and materials reflecting, referring to or relating to any testing or analyses performed by or on behalf of you on surface waters located within the IRW.

Response: Cargill, Inc. objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill, Inc. further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents prior to 2002; seeks information protected by the attorney client, work product, or joint defense privileges; seeks documents in the public domain which are equally available to Plaintiff as to Cargill, Inc.; and seeks all documents "reflecting, referring to or relating to" the subject matter of this request. Subject to and without waiving these objections, Cargill, Inc. will produce upon entry of a mutually agreeable confidentiality and protective order all reasonably responsive, non-privileged documents that it has been able to locate as of the date of service of these responses.

Request for Production No. 122: Please produce all documents and materials reflecting, referring to or relating to any testing or analyses performed by or on behalf of you on ground waters located within the IRW.

Response: Cargill, Inc. objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill, Inc. further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it:

seeks documents prior to 2002; seeks information protected by the attorney client, work product, or joint defense privileges; seeks documents in the public domain which are equally available to Plaintiff as to Cargill, Inc.; and seeks all documents "reflecting, referring to or relating to" the subject matter of this request. Subject to and without waiving these objections, Cargill, Inc. will produce upon entry of a mutually agreeable confidentiality and protective order all reasonably responsive, non-privileged documents that it has been able to locate as of the date of service of these responses.

Request for Production No. 123: Please produce all documents and materials reflecting, referring to or relating to any testing or analyses performed by or on behalf of you on edge-of-field run-off from lands located within the IRW.

Response: Cargill, Inc. objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill, Inc. further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents prior to 2002; seeks information protected by the attorney client, work product, or joint defense privileges; seeks documents in the public domain which are equally available to Plaintiff as to Cargill, Inc.; and seeks all documents "reflecting, referring to or relating to" the subject matter of this request. Subject to and without waiving these objections, Cargill, Inc. will produce upon entry of a mutually agreeable confidentiality and protective order all reasonably responsive, non-privileged documents that it has been able to locate as of the date of service of these responses.

* * *

Request for Production No. 124: Please produce all documents and materials reflecting, referring to or relating to any citations, tickets, fines, penalties or warnings issued to you or poultry growers under contract with you that pertain to actual or alleged run-off or discharge of poultry waste / poultry litter / poultry manure.

Response: Cargill, Inc. objects to this request to the extent that it seeks confidential and proprietary trade secret or business documents without entry of an appropriate confidentiality and protective order. Cargill, Inc. further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it: seeks documents prior to 2002; seeks documents related to geographic areas outside the Illinois River Watershed; seeks information protected by the attorney client, work product, or joint defense privileges; seeks documents in the public domain which are equally available to Plaintiff as to Cargill, Inc.; and seeks all documents "reflecting, referring to or relating to" the subject matter of this request. Subject to and without waiving these objections, Cargill, Inc. will produce upon entry of a mutually agreeable confidentiality and protective order all reasonably responsive, non-privileged documents that it has been able to locate as of the date of service of these responses.

* * *

Request for Production No. 125: Please produce all documents and materials reflecting, referring to or relating to the destruction of any documents and materials that would have been responsive, non-privileged to any of the above requests for production but due to their destruction are no longer in existence.

Response: Cargill, Inc. objects to this request as vague, ambiguous and unintelligible. Cargill, Inc. further objects to this request as overbroad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it seeks all documents "reflecting, referring to or relating to" the subject matter of this request. Subject to and without waiving these objections, Cargill, Inc. states that it will produce its document retention policies as indicated in Cargill, Inc.'s response to Request No. 2 of Plaintiff's First Request for Production of Documents. As of the date of service of these responses, Cargill, Inc. has not identified any other documents responsive, non-privileged to this request.

Respectfully submitted,

RHODES, HIERONYMUS, JONES,
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